

REMARKS/ARGUMENTS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 14, 15 and 20-27 were pending prior to the Office Action.

In this Amendment, claim 27 is canceled without prejudice or disclaimer, and the features therein are incorporated into claim 26. Therefore, claims 14, 15 and 20-26 are pending. Claims 14, 25 and 26 are independent.

A. PRIORITY CLAIM ACKNOWLEDGMENT REQUEST

Upon review of Applicant's files, it was noticed that the Examiner has not yet acknowledged the claim for priority and receipt of the priority application. Applicant respectfully requests the Examiner to acknowledge receipt of the record copy of the international application and the priority claim and forward the same to Applicant's representative at his earliest convenience.

B. §103 REJECTION – CAVIN, BAUMANN, HIDDINK

Claims 14, 20, 21, 23 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cavin (U.S. Publication No. 2003/0126492) in view of Baumann et al. (U.S. Patent No. 7,047,309, *hereinafter Baumann*) and Hiddink et al. (U.S. Publication No. 2005/0143027, *hereinafter Hiddink*). Applicant respectfully traverses.

Independent claim 14 recites, in part “sampling ... a rate of packet loss on the link”, “comparing the representative loss rate to a pre-defined acceptable loss rate ...”, “if the representative loss rate exceeds the acceptable loss rate ... then decreasing the sending rate over the link ...”, and “if the representative loss rate is less than the acceptable loss rate ... then increasing the sending rate over the link ...”

The Examiner relies upon newly cited Gavin in combination with Baumann and newly cited Hiddink to reject claim 14. More specifically, the Examiner alleges that Cavin discloses the features of claim 14 recited above. On the contrary, Cavin does not teach or suggest one or more of these features.

According to Cavin, if a Packet Error Rate (PER) is below an acceptable level, then the transmission rate of a WLAN access point is increased. If the PER is above the acceptable level, then it is determined whether or not interference is from a constant interfering source or from an intermittent interfering source. If the interference is found to be from a constant interfering source, then the transmission rate of a WLAN access point is decreased. However, if the PER is above an acceptable level, and interference is attributed to an intermittent interfering source, then the transmission rate is increased.

Cavin therefore teaches away from the solution of the present invention, as it discloses that the transmission rate can be increased even when the packet error rate is above an acceptable level. Cavin cannot be combined Baumann, Hiddink or any other references to reject claim 14. *See KSR v.*

Teleflex, 550 US 398, 127 S.Ct. 1727 (2007) ("When the prior art teaches away from combining certain know elements, discovery of successful means of combining them is more likely to be non-obvious."). This reason alone is sufficient to distinguish claim 14 from the combination of Cavin, Baumann and Hiddink.

Cavin, Baumann and Hiddink are deficient in other areas as well. Claim 14 also recites, in part "applying a sliding window to the sampled values." The Examiner admits that Cavin does not teach or suggest this feature, but mistakenly alleges that Baumann corrects this deficiency. Baumann discloses that TCP/IP applies a sliding window to the bytes transferred between a sender and a recipient. Following transmission of a number of bytes, the recipient will then acknowledge the last sequential byte received, and the sender will then slide the sliding window to the first acknowledged byte for transmission in the next packet. Baumann does not disclose that the sliding window is applied to a sample rate of packet loss which is contrary to the Examiner's allegation.

Hiddink is not relied upon to correct this deficiency. Since none of Cavin, Baumann and Hiddink discloses this feature, the combination of the same references cannot disclose this feature. This is another reason, sufficient on its own, to demonstrate that claim 14 is distinguishable over the combination of Cavin, Baumann and Hiddink,

In addition, the Examiner admits that the combination of Cavin and Baumann does not disclose the features of "if a pre-defined time period has

elapsed since the sending rate of the link was last adapted” and “if a pre-defined good performance time period has elapsed since the sending rate of the link was last adapted.” However, the Examiner mistakenly relies upon Hiddink to correct this deficiency.

On the contrary, Hiddink merely discloses that, after a wireless communication system has fallen back to a lower data rate, then it will not attempt to use a higher data rate for the duration of a timer (see paragraph 81). Nothing in Hiddink even remotely suggests decreasing the sending rate over a link if a pre-defined time period has elapsed since the sending rate was last adapted. Also nothing in Hiddink teaches or suggests increasing the sending rate over a link if a pre-defined good performance time period has elapsed since the sending rate was last adapted. This is a further sufficient reason on its own to distinguish claim 14 over the combination of Cavin, Baumann and Hiddink.

The following is noted as well. Contrary to the Examiners allegation, Cavin does not disclose a method of optimizing bandwidth usage on an RTP managed link between a UE and an MRF of an IMS. Cavin actually relates to a method and apparatus for increasing data throughput at an access point of a WLAN wireless device when an intermittent interference source is present. Cavin therefore relates to an entirely different problem to the claimed invention, and one of ordinary skill would not consider Cavin when attempting to address the problem solved by the aspect(s) of the claimed invention.

As demonstrated above, independent claim 14 is distinguishable over Cavin, Baumann and Hiddink for multiple reasons. For similar reasons, independent claim 25 is also distinguishable over Cavin, Baumann and Hiddink. Claims 20, 21 and 23 are distinguishable over the same references by virtue of their dependencies from claim 14 as well as on their own merits.

Applicant respectfully requests that the rejection based on Cavin, Baumann and Hiddink be withdrawn.

C. §103 REJECTION – CAVIN, BAUMANN, HIDDINK, GANNAGE

Claim 15 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cavin in combination with Baumann and Hiddink, in view of Gannage et al. (U.S. Publication No. 2004/0151158, *hereinafter Gannage*). Applicant respectfully traverses.

As demonstrated, claim 14 is distinguishable over Cavin, Baumann and Hiddink. Gannage does not correct the deficiencies of Cavin, Baumann and Hiddink. Thus, claim 14 is also distinguishable over any combination of Cavin, Baumann, Hiddink and Gannage. By virtue of its dependency from claim 14 as well as on its own merits, claim 15 is distinguishable over any combination of Cavin, Baumann, Hiddink and Gannage.

Applicant respectfully requests that the rejection based on Cavin, Baumann, Hiddink and Gannage be withdrawn.

D. §103 REJECTION – CAVIN, BAUMANN, HIDDINK, VIMPARI

Claims 22 and 24 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cavin in combination with Baumann and Hiddink, in view of Vimpari et al. (U.S. Publication No. 2003/0117972, *hereinafter Vimpari*). Applicant respectfully traverses.

As demonstrated, claim 14 is distinguishable over Cavin, Baumann and Hiddink, and Vimpari does not correct the deficiencies of Cavin, Baumann and Hiddink. Thus, claim 14 is also distinguishable over any combination of Cavin, Baumann, Hiddink and Vimpari. By virtue of their dependencies from claim 14 as well as on their own merits, claim 22 and 24 are distinguishable over any combination of Cavin, Baumann, Hiddink and Vimpari.

Applicant respectfully requests that the rejection based on Cavin, Baumann, Hiddink and Vimpari be withdrawn.

E. §103 REJECTION – CAVIN, BAUMANN, HIDDINK, VIMPARI

Claims 26 and 27 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cavin in view of Baumann. Claim 26 is amended to incorporate the features of claim 27. Therefore, Applicant will treat amended claim 26 as being rejected based on Cavin and Baumann. Applicant respectfully traverses.

As amended, claim 26 recites “means for applying a sliding window to the sampled values and calculating an average or other statistically

representative loss rate across the window”, “means for comparing the representative loss rate to a pre-defined acceptable loss rate”, “means for sending to the Media Resource Function an analysis of whether the representative loss rate exceeds the pre-defined acceptable loss rate and a pre-defined time period has elapsed since the sending rate over the link was last adapted” and “means for sending to the Media Resource Function an analysis of whether the representative loss rate is less than the pre-defined acceptable loss rate and a pre-defined good performance time period has elapsed since the sending rate over the link was last adapted.” It is demonstrated above that Cavin and Baumann, individually or in combination, do not teach or suggest one or more of these features. Therefore, claim 26 is distinguishable over Cavin and Baumann.

Applicant respectfully requests that the rejection based on Cavin and Baumann be withdrawn.

F. CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Hyung N. Sohn
Reg. No. 44,346

HNS/edg
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100